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TAGS: PREL PGOV MASS MARR EZ
SUBJECT: MISSILE DEFENSE: CZECH PARLIAMENTARIANS ENCOURAGED
BY EUCOM LEGAL BREIFING

REF: 2006 STATE 142152

Classified By: Political Counselor Michael Dodman
for reasons 1.4 (b) and (d)

1) (U) Summary: On January 9 at Prague request, EUOM Staff Judge Advocate Col. William Lietzau took time away from briefing the Czech Government on the Military Extraterritorial Jurisdiction Act (reftel) to answer a request from Czech Parliamentarians for a meeting. COL Lietzau answered questions on the U.S. legal principles and practices that are applied when U.S. personnel are based in a host country. The Parliamentarians' request stemmed from the ongoing possibility of the Czech Republic hosting a U.S. missile defense facility. After many probing questions the parliamentarians indicated their general support for U.S. legal practices and expressed gratitude that the United States had been so forthcoming in providing information that had been difficult to obtain from the Czech government. End summary.

2) (U) EUOM Staff Judge Advocate Col. William Lietzau January 9 briefed Czech government representatives on the Military Extraterritorial Jurisdiction Act (tasking in ref A, meeting reported septel). During this visit to Prague Lietzau also answered a request from the Parliamentary foreign affairs and defense committees to provide information on the U.S. legal practices that are used when U.S. forces are based overseas. (Note: Parliamentarians had on several occasions complained to Emboffs that they were receiving insufficient information on this topic from the Czech government, and that the missile defense issue in the public arena was being hijacked by critics who claimed that U.S. forces would act criminally and with impunity if based in the Czech Republic. End note)

3) (U) CSSD Deputy Jan Hamachek, chairof the Foreign Affairs committee, opened by thanking Lietzau for making himself available. Hamachek asked if Lietzau could comment on how U.S. and Czech law might interact if U.S. forces were to be based in the Czech Republic. Lietzau gave a general briefing on the Uniform Code of Military Justice (UCMJ), the NATO Status of Forces Agreement (SOFA), bilateral additions to the NATO SOFA, and the practical day-to-day jurisdictional issues that arise when troops are based overseas. He outlined three categories of crimes - 1) those military-specific offenses under U.S. military law committed in the course of military duty (a tiny category), 2) those exclusive to Czech law (another tiny category), and 3) the vast majority of crimes falling both under the law of the host country and of the United States (the only category that seemed to arise in real world situations).

4) (U) CSSD Deputy Miloslav Sousek recalled the Czech experience of Soviet military occupation, explaining that crimes committed inside Soviet bases had always been off limits for Czech authorities and crimes committed by Soviet troops outside the bases had been the subject of jurisdictional disputes. Lietzau responded that, while he could not speak to what a future basing agreement might say, as a general rule host countries have the option to exercise their jurisdiction to prosecute crimes committed on their territory, including on bases occupied by U.S. personnel. He explained that for practical reasons, host countries generally tend to prefer that U.S. authorities conduct most prosecutions of this sort. Lietzau also added that the Soviet model Sousek had described was completely foreign to his own experience.

5) (C) KSCM (Communist) Deputy Katerina Konecna sought clarification, questioning if Czech authorities would exercise sole criminal jurisdiction on the territory of a U.S. facility. Lietzau responded that a U.S. base is still host country territory, and that criminal jurisdiction can still be exercised by a host country.

6) (U) Lietzau answered several other questions from politicians on topics that included: the strictness of the UCMJ, differences in SOFAs for different countries, and the working relationships between U.S. military police and civilian authorities in Europe. Lietzau was careful to say that he was not in a position to outline what the U.S. would want to include in the legal agreement that would be negotiated if the U.S. were to offer a missile defense facility to the Czech Republic. Hamacek closed the meeting by reiterating his appreciation for the U.S. briefing, and bemoaning the fact that he could not get similarly detailed

information from the Czech government.

7) (C) Comment: For months one of the most common claims by Czech critics of U.S. missile defense has been that U.S. personnel would imperil the local population through reckless and criminal conduct. Many parliamentarians, while fairly sure this would not be the case, lacked information that would allow them to distinguish U.S. forces living in an allied country from the Czech experience of living under the thumb of the Soviet Army. This gathering of parliamentarians influential in defense and foreign affairs was clearly very pleased to be briefed by a senior expert, and to have their questions answered in a manner that would allow them to answer the critics with facts, rather than guesswork. After the meeting, one of the parliamentary deputies approached a member of the Embassy staff to say that the opposition CSSD party, currently divided on the missile defense issue, was particularly receptive to this kind of information at this stage in their internal debate. Embassy Prague will continue to provide information on missile defense to Czech leaders while being careful to ensure that the overall effort retains a Czech face. End comment.

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